IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KALVIN DRUMMOND, et al., :

on behalf of himself and others : CIVIL ACTION

similarly situated,

Plaintiffs, :

:

V.

•

HERR FOODS INC., et al., : No. 13-5991

Defendants. :

ORDER

AND NOW, this **9**th day of **January**, **2014**, upon consideration of Defendant

Herr Foods Inc.'s Partial Motion to Dismiss Plaintiffs' Amended Complaint, Plaintiffs' response thereto, Defendant's reply thereon, and for the reasons provided in this Court's Memorandum dated January 9, 2014, it is hereby **ORDERED** that:

- 1. The motion (Document No. 9) is **GRANTED**.
- 2. Count III of Plaintiffs' Amended Complaint is **DISMISSED**.
- Plaintiffs may file a Second Amended Complaint in accordance with this Court's Memorandum. If they elect to do so, the Second Amended Complaint shall be filed on or before January 27, 2014.

BY THE COURT;

Berle M. Schiller, J.